

SERIAL 99098 -RFP

NEUTRAL EVALUATOR FOR CRIMINAL JUSTICE FACILITY

MARCH 31, 2006

CONTRACT PERIOD THROUGH ~~MARCH 31, 2004~~

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **NEUTRAL EVALUATOR FOR CRIMINAL JUSTICE FACILITY
DEVELOPMENT DEPARTMENT**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by the Board of Supervisors on **MARCH 15, 2000**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

SD/mm
Attach

Copy to: Clerk of the Board
Heidi Birch Capital Facilities Development Department
Sharon Tohtsoni, Materials Management

NEUTRAL EVALUATOR FOR CRIMINAL JUSTICE FACILITY DEVELOPMENT DEPARTMENT

1.0 **INTENT:**

1.1 **PURPOSE:**

The purpose of this document is to define the general requirements for Neutral Evaluator services for Maricopa County (The "County") as fully described in Section 3.0 of this document. Proposers are required to submit detailed information regarding the services outlined in this RFP.

1.2 **SCOPE:**

This document defines the basic services desired, the proposal procedures and the evaluation and award criteria, and other factors pertinent to this proposal.

1.3 **OBJECTIVES:**

It is the intent of the County to procure the services of one or more qualified individuals or firms to hear disputes between the County and contractors, architects and the construction manager relating to the jail and juvenile detention facilities construction program.

The Proposer shall furnish all information required by this RFP in order that the County may conduct a thorough evaluation of its proposal. The County reserves the right to award the contract to more than one Proposer.

1.4 **WORK SCHEDULE:**

The services to be provided under this contract are on an "on-call" basis and are expected to be intermittent. The County does not guarantee any work or certain amount of work under this contract.

2.0 **SCOPE OF WORK:**

The County is commencing a major construction program to build new jail, juvenile detention and other facilities, which was approved by the voters in November 1998. The Criminal Justice Facilities Development Department (CJFDD) is administering this program on behalf of the County. All the construction and professional services contracts will contain a provision calling for binding Alternative Dispute Resolution (ADR) under certain defined circumstances (ADR provision attached). The Neutral Evaluator is the initial outside party to rule on disputes covered by the ADR provision. The Neutral Evaluator is required to promptly hear a dispute and render a detailed, analytical report and recommendation, all within the time frames set forth in the ADR provision. The goal of the ADR process is to fairly evaluate and determine all applicable disputes in a timely fashion in order for the County and its contractors to have a certain and prompt result.

The successful proposer will have experience in construction dispute resolution and/or construction dispute determination experience as a hearing officer or judge.

3.0 **SPECIAL TERMS & CONDITIONS:**

The County is seeking qualified proposals to provide Neutral Evaluator services to conduct hearings and render decisions as required by the ADR process.

3.1 **MINIMUM QUALIFICATION REQUIREMENTS:**

Proposer shall:

3.1.1 Have a minimum of 5 years of construction dispute resolution experience and/or 5 years of construction dispute determination experience as a hearing officer or judge.

3.1.2 Possess any license needed to provide the service.

3.2 SCOPE OF SERVICES:

The successful Proposer will conduct hearings, consider evidence, understand and apply the relevant provisions of law and render prompt determinations. The ability to conduct hearings as set forth in the ADR provision is required. There is no guarantee that any number of hearings, or any, will occur.

3.3 PROPOSED PERSONNEL:

Provide resumes of key personnel who will be involved in the administration and execution of services under this contract. Detail the experience of the individual in charge of the contract and who will be the routine contact with the County, as well as the qualifications of the Neutral Evaluator, if different.

3.4 QUALIFICATIONS AND RESOURCES:

3.4.1 Generally describe the history and background of the firm and/or individual including; year founded, scope of services available, numbers of personnel, extent of operations or other information as may be appropriate.

3.4.2 Describe the firm's range of services, which will be provided to the County (and which may or may not be specifically requested or referenced here).

3.4.3 List the types and limits of insurance coverage held by the firm. Describe any malpractice claims or breach of fiduciary duty (or similar) claims, if any, made against the proposer within the last five (5) years (to be filed in a separate sealed envelope marked "Section 3.4.3 Confidential").

3.5 PAST EXPERIENCE:

3.5.1 Set forth the proposer's experience, which is relevant to the task of Neutral Evaluator.

3.5.2 Submit references relevant to these services on the attached form.

3.6 FEES:

Set forth the compensation for the services proposed. It is presumed by the County that compensation will be on an hourly fee basis. However, Proposers may submit any proposed method or means of compensation as long as the method has no connection to the results or outcome of any hearing or dispute.

4.0 **CONTRACT TERMS & CONDITIONS:**

4.1 LANGUAGE FOR REQUIREMENTS CONTRACTS:

Contractors signify their understanding and agreement by signing this document, that the Contract resulting from this proposal will be a requirements contract. However, this Contract does not guarantee that any purchases will be made. It only indicates that if purchases are made for the services contained in this Contract, that they will be purchased from the Contractor awarded that item. Orders will only be placed when a need is identified by a Using Agency or Department and proper authorization and documentation have been approved.

4.2 CONTRACT LENGTH:

This contract term shall be four years with the County having the option of extending the contract, with the consent of the contractor, for two additional two year periods or until any construction contract, hearing or matter is concluded.

4.3 OPTION TO EXTEND:

The Contractor shall be notified in writing by the Materials Management Department of the County's intention to extend the contract term at least thirty (30) calendar days prior to the expiration of the original contract term.

4.4 ESCALATION:

Prices as proposed will remain constant during the initial four year contract term. A price increase will be considered by the County, upon Contractor's request, in conjunction with the exercise of renewal options.

4.5 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing thirty (30) calendar days advance notice to the Contractor.

4.6 DEFAULT:

The County may suspend, terminate, or modify this contract immediately upon written notice to the Contractor in the event of a nonperformance of stated objectives or other material breach of contractual obligations; or upon the happening of any event, which would jeopardize the ability of the Contractor to perform any of its contractual obligations. Maricopa County reserves the right to have service provided by other than the Contractor if the Contractor is unable or fails to provide requested service within the specified time frame. If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract.

4.7 APPROPRIATION CONTINGENCY:

The Contractor recognized that any agreement entered into shall commence upon the day first provided and continued in full force and effect until termination in accordance with its provisions. The Contractor and the County herein recognized that the continuation of any contract after the close of any given fiscal year of the County (which fiscal years end on June 30 of each year,) shall be subject to the approval of the budget of the County providing for or covering such contract item as an expenditure therein. The County does not represent that said budget item will be actually adopted, said determination being the determination of the County Board of Supervisors at the time of the adoption of the budget.

4.8 ORGANIZATION - EMPLOYMENT DISCLAIMER:

The Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the Contract.

The parties agree that no persons supplied by the Contractor(s) in the performance of obligations under the agreement are considered to be County employees, and that no rights of County civil service, retirement or personnel rules accrue to such persons. The Contractor(s) shall have total responsibility for all salaries, wages, bonuses, retirement withholdings, workmen's compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the County harmless with respect thereto.

4.9 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S. § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.10 INDEMNIFICATION:

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the County, its Agents, Representatives, Officers, Directors, Officials and Employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its Employees, Agents, or any tier of Subcontractors in the performance of this Contract. Contractor's duty to defend hold harmless and indemnify the County, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work to services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable. Contractor will have no obligation to indemnify the Indemnified Parties for claims to the extent they arise out of any of the Indemnified Parties' negligence or willful misconduct.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

4.11 OFFSET FOR DAMAGES:

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this Contract.

4.12 ASSIGNMENT OR SUBCONTRACTING:

Neither this Agreement, nor any portion thereof, may be assigned or subcontracted by Contractor without the prior written consent of the County. Any attempt by the Contractor to assign or subcontract any performance of this Contract without the written consent of the County shall be null and void and shall constitute a breach of this Contract.

The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

4.13 AMENDMENTS:

All amendments to this Contract must be in writing and signed by both parties.

4.14 CONFORMATION WITH THE LAW:

This service shall be accomplished in conformity with the applicable laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and any other applicable jurisdictions.

4.15 CONTRACT COMPLIANCE MONITORING:

The Materials Management Department and CJFDD shall monitor the Contractors compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/or copying by the County all records and accounts relating to the work performed or the services provided in this Contract.

4.16 RETENTION OF RECORDS:

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer. The Department, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all said materials.

4.17 ADEQUACY OF RECORDS:

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that allowable services were provided to eligible clients the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.18 AUDIT DISALLOWANCES:

If at any time it is determined by the Department that a cost for which payment has been made is a disallowed cost, the Department shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the Department either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

4.19 P.O. CANCELLATION LANGUAGE:

The Department of Materials Management reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc. Contractors agree to accept verbal notification of cancellation from the Department of Materials Management with written notification to follow. By submitting a proposal in response to this solicitation, the Contractor specifically acknowledges to be bound by this cancellation policy.

4.20 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

4.21 SECURITY AND PRIVACY:

The Contractor agrees that none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. The County shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

The Contractor shall incorporate the foregoing provisions of this paragraph in all of its authorized Subcontracts.

4.22 SEVERABILITY:

Any provision of this Contract, which is determined to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

4.23 VALIDITY:

The invalidity, in whole or in part, of any provision of this Agreement shall not void or affect the validity of any other provision of this Contract.

4.24 CONTRACTOR RESPONSIBILITY:

The Contractor will be responsible for any damages whatsoever to County property as applicable when such property is the responsibility or in the custody of the Contractor, his Employees or Subcontractors.

Contractor agrees that all Subcontractors performing work under this Contract shall comply with its provisions and it is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees of the Contractor, and not employees of Maricopa County.

Contractor acknowledges and agrees that it is liable and responsible for any act or omission by the Contractor, its employees, agents, officers, representatives, and subcontractors occurring in the course of Contractor's performance of this Contract, whether such act or omission occurs on County property or elsewhere. Contractor shall be liable for any loss or damage arising out of or related to Contractor's performance of this contract, Contractor shall bear the above stated liability, even in absence of its own negligence, unless County actions caused the loss or damage. Contractor shall bear the above stated liability, consequential, incidental, direct, and indirect damages, and shall be liable for all costs, including attorney's fees, incurred by the County to enforce this provision.

4.25 FAILURE TO PROVIDE SERVICES:

Maricopa County reserves the right to have service provided by other than the Contractor if the Contractor is unable or fails to provide requested service within the specified time frame.

4.26 CHANGES:

The County may require changes in the services to be performed by the Contractor hereunder. All such changes, which are mutually agreed upon by and between all the parties, shall be incorporated in written amendments to this Contract. All such amendments shall state any increase or decrease in the amount of the compensation due to the Contractor for the change.

4.27 EMPLOYEE RESPONSIBILITY:

No responsibility will attach to a county employee for the premature opening of a proposal not properly addressed and identified in accordance with the proposal documents.

~~JAMES E ATTEBERY, 4211 E WHITTON, PHOENIX, AZ 85018~~

WILLING TO ACCEPT FUTURE SOLICITATIONS VIA EMAIL: ~~__X__~~ YES ~~____~~ NO

PRICING: ~~P081102 / B0604224~~

ITEM DESCRIPTION	UNIT PRICE
6.1 DISPUTE RESOLUTION	\$ 110.00 PER/HR

TERMS: ~~____~~ Net 30

FEDERAL TAX ID NUMBER: ~~____~~ 52-6200796

VENDOR NUMBER: ~~____~~ 526200796

TELEPHONE NUMBER: ~~____~~ (602) 955-9224

FAX NUMBER: ~~____~~ (602) 224-0923

CONTRACT PERIOD: ~~____~~ To cover the period ending MARCH 31, 2004.

Removed from contract 12/18/2003.

PMA CONSULTANTS LLC, 3800 N CENTRAL AVE STE #570, PHOENIX, AZ 85012

WILLING TO ACCEPT FUTURE SOLICITATIONS VIA EMAIL: ☒ YES ☐ NO

ACCEPT PROCUREMENT CARD: ☐ YES ☒ NO

PRICING: P081102 / B0604224

ITEM DESCRIPTION		UNIT PRICE
Dr. Gui Ponce de Leon, P.E.	Managing Principal	<u>\$234.00 PER/HR</u>
Mr. John Spittler, P.E.	Managing Principal	<u>\$209.00 PER/HR</u>
Mr. Gary H. Jentzen, P.E., J.D.	Senior Principal	<u>\$213.00 PER/HR</u>
Mr. Richard J. McAfee, P.E.	Senior Principal	<u>\$178.00 PER/HR</u>
Mr. Donald Fredlund		<u>\$205.00 PER/HR</u>
Other Available Staff:	Senior Principal/Principal	<u>\$213.00 – 144.00 PER/HR</u>
	Principal Associate	<u>\$159.00 – 127.00 PER/HR</u>
	Senior Associate/Associate	<u>\$139.00 – 106.00 PER/HR</u>
	Senior Engineer/Engineer	<u>\$118.25 - 70.00 PER/HR</u>
	Technical Assistant	<u>\$ 71.00 - 50.00 PER/HR</u>

Travel and lodging expenses reimbursable at actual cost with prior approval of Maricopa County.

TERMS: Net 30

FEDERAL TAX ID NUMBER: 38-3327768

VENDOR NUMBER: 383327768

TELEPHONE NUMBER: (602) 277-7307

FAX NUMBER: (602) 277-2827

CONTRACT PERIOD: To cover the period ending **March 31, 2004 2006.**